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**DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **METHOD FOR EXPLICIT DATA RATE CONTROL IN A PACKET COMMUNICATION ENVIRONMENT WITHOUT DATA RATE SUPERVISION** the specification of which      is attached hereto or   X   was filed on April 27, 1999 as Application No. 09/300,036 and was amended on                      (if applicable).

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56. I claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

I claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application No.	Date of Filing	Status
08/742,994	11/1/96	Pending

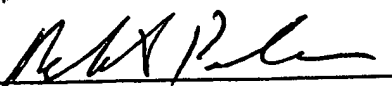
**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Kenneth C. Brooks, Reg. No. 38,393  
Kenneth R. Allen, Reg. No. 27,301

Send Correspondence to: <b>Kenneth R. Allen</b> <b>TOWNSEND and TOWNSEND and CREW LLP</b> <b>Two Embarcadero Center, 8<sup>th</sup> Floor</b> <b>San Francisco, California 94111-3834</b>	Direct Telephone Calls to: (Name, Reg. No., Telephone No.) Name: <b>Kenneth C. Brooks</b> Reg. No.: <b>38,393</b> Telephone: <b>650-326-2400</b>
---	--

Full Name of Inventor 1:	Last Name: <b>PACKER</b>	First Name: <b>ROBERT</b>	Middle Name or Initial: <b>L.</b>
Residence & Citizenship:	City: <b>Los Gatos</b>	State/Foreign Country: <b>California</b>	Country of Citizenship: <b>United States</b>
Post Office Address:	Post Office Address: <b>16095 Redwood Lodge Road</b>	City: <b>Los Gatos</b>	State/Country: <b>CA</b>
			Postal Code: <b>95036</b>

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor 1	
	
ROBERT L. PACKER	
Date	6/9/99

PA 188920 v1

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**STATEMENT UNDER 37 CFR 3.73(b)**

Applicant/Patent Owner: Packer

Application No./Patent No.: \_\_\_\_\_ Filed/Issued Date: 3/1/2004

Entitled: Method for Explicit Data Rate Control in a Packet Communication Environment without Data Rate Supervision

Packeteer, Inc.

(Name of Assignee)

a Delaware Corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by, percentage) of its ownership interest is \_\_\_\_\_ %

in the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office, Reel/Frame 010337/0323, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
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☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.  
(NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the PTO. See MPEP 302.08)

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

March 1, 2004

Date

David Yntema

Typed or printed name

David C. Yntema

Signature

Chief Financial Officer

Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



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JANUARY 27, 2000

PTAS  
TOWNSEND AND TOWNSEND AND CREW LLP  
KENNETH R. ALLEN  
TWO EMBARCADERO CENTER, 8TH FLOOR  
SAN FRANCISCO, CALIFORNIA 94111-3834



\*101187630A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 10/28/1999

REEL/FRAME: 010337/0323  
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
PACKER, ROBERT L.

DOC DATE: 06/30/1999

ASSIGNEE:  
PACKETEER, INC.  
10495 N. DEANZA BLVD.  
CUPERTINO, CALIFORNIA 95014

SERIAL NUMBER: 09300036  
PATENT NUMBER:

FILING DATE: 04/27/1999  
ISSUE DATE:

LAWAN FLETCHER, EXAMINER  
ASSIGNMENT DIVISION  
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Attorney Docket No. 17814-1.10US

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101187630

Sheet

U.S. Department of Commerce  
Patent and Trademark Office

To the Honorable Asst. Commissioner for Patents. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Robert L. Packer

Additional name(s) of conveying parties attached?

☐ Yes ☒ No.

2. Name and address of receiving party(ies)

Name: Packeteer, Inc.

Internal Address:

Street Address: 10495 N. DeAnza Blvd.

City: Cupertino State: CA ZIP: 95014

Additional names and addresses attached?

☐ Yes ☒ No

3. Nature of conveyance:

☒ Assignment

☐ Merger

☐ Security Agreement

☐ Change of Name

☐ Other:

Execution Date: June 30, 1999

4. Application Number(s) or Patent Numbers.

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No(s): 09/300,036

B. Patent No(s):

Additional numbers attached?

☐ Yes

☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Kenneth R. Allen  
TOWNSEND AND TOWNSEND AND CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
(650) 326-2400

6. Total number of applications and patents involved 1

7. Total fee (37 CFR 3.41): \$40.00

☐ Enclosed

☒ Charge Fees to Deposit Account

☒ Charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to deposit account.

8 Deposit account number: 20-1430

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing is true and correct and any attached copy is a true of copy of the original document.

Kenneth R. Allen

Name of Person Signing

Signature

Date

Atty Reg. No. 27,301

Total number of pages including cover sheet, attachments and document 3

10. Change Correspondence Address to that of Part 5?

☒ Yes

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Mail documents to be recorded with required cover to:

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Asst. Commissioner for Patents  
Box: Assignments  
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**ASSIGNMENT OF PATENT APPLICATION**

SOLE

WHEREAS, Robert L. Packer, of Los Gatos, California, hereinafter referred to as "Assignor," is the inventor of the invention described and set forth in the below-identified application for United States Letters Patent:

Title of Invention:       METHOD FOR EXPLICIT DATA RATE CONTROL IN A  
                              PACKET COMMUNICATION ENVIRONMENT  
                              WITHOUT DATA RATE SUPERVISION

Filing Date:               April 27, 1999

Application No.:         09/300,036

WHEREAS, Packeteer, Inc., a corporation of the state of Delaware, located at 10495 N. DeAnza Blvd., Cupertino, CA, 95014, hereinafter referred to as "ASSIGNEE," is desirous of acquiring an interest in the invention and application and in any U.S. Letters Patent and Registrations which may be granted on the same;

For good and valuable consideration, receipt of which is hereby acknowledged by Assignor, Assignor has assigned, and by these presents does assign to Assignee all right, title and interest in and to the invention and application and to all foreign counterparts (including patent, utility model and industrial designs), and in and to any Letters Patent and Registrations which may hereafter be granted on any patent application claiming priority from the same in the United States and all countries throughout the world, and to claim the priority from the application as provided by the Paris Convention. The right, title and interest is to be held and enjoyed by Assignee and Assignee's successors and assigns as fully and exclusively as it would have been held and enjoyed by Assignor had this Assignment not been made, for the full term of any Letters Patent and Registrations which may be granted thereon, or of any division, renewal, continuation in whole or in part, substitution, conversion, reissue, prolongation or extension thereof.

Assignor further agrees that Assignor will, without charge to Assignee, but at Assignee's expense, (a) cooperate with Assignee in the prosecution of U.S. Patent applications and foreign counterparts on the invention and any improvements, (b) execute, verify, acknowledge and deliver all such further papers, including applications and instruments of transfer, and (c) perform such other acts as Assignee lawfully may request to obtain or maintain Letters Patent and Registrations for the invention and improvements in any and all countries, and to vest title thereto in Assignee, or Assignee's successors and assigns.

Assignor hereby authorizes and requests Townsend and Townsend and Crew LLP, Two Embarcadero Center, 8<sup>th</sup> Floor, San Francisco, CA 94111-3834, to insert herein above the application number and filing date of said application when known.

IN TESTIMONY WHEREOF, Assignor has signed his name on the date indicated.

Dated: 10/25/99

*Robert L. Packer*  
Robert L. Packer

STATE OF CALIFORNIA     )  
                                      )  
COUNTY OF                    )     ss.

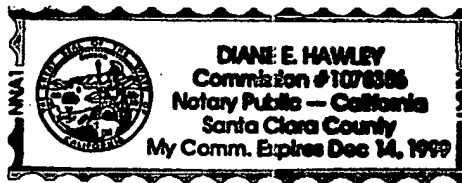
On OCTOBER 25 1999, before me, DIANE E. Hawley <sup>NOTARY PUBLIC</sup>, personally appeared Robert L. Packer, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

*Diane E. Hawley*  
NOTARY PUBLIC

My Commission Expires: 12-14-99

PA 194469 v1





**PATENT APPLICATION**  
Attorney Docket 6533/53815

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicants:** Packer

**Serial No.:** TBD

**Filed:** March 1, 2004

**For:** *Method for Explicit Data Rate Control in a Packet Communication Environment without Data Rate Supervision*

**POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Packeteer, Inc., a Delaware corporation, at 10201 N. De Anza Blvd., Cupertino, CA 95014, assignee of all right, title and interest to the application identified above, through its Chief Financial Officer, David Yntema, hereby appoints as its principal attorney, Mark James Spolyar, Reg. No. 42164, with full power of revocation and substitution, to prosecute this application and to transact all business in the United States Patent and Trademark Office connected herewith.

All correspondence and telephone calls relating to this application should be directed to:

**Customer Number: 30505**

Law Office of Mark J. Spolyar

38 Fountain Street

San Francisco, CA 94114

415-826-7966

415-480-1780 fax.

Respectfully submitted,  
**PACKETEER, INC.**

By: \_\_\_\_\_

*David C. Yntema*

David Yntema

Its: Chief Financial Officer

Date: March 1, 2004